

BRAE CORPORATION

RECORDATION NO. 11965-9 Filed 1425

OCT 13 1982 - 11 20 AM

INTERSTATE COMMERCE COMMISSION

2-288A015
No.
Date 13 1982
Fee \$ 12.40
ICC Washington, D. C.

October 5, 1982

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
12th & Constitution, Room 2215
Washington, D.C. 20423

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. Section 11303 are two originals and eight copies of the following document:

First Amendment dated as of August 30, 1982 to the Amended and Restated Credit, Pledge and Security Agreement dated as of July 24, 1981 among BRAE Corporation, Manufacturers Hanover Trust Company, The First National Bank of Boston, Berliner Handels-und Frankfurter Bank, Crocker National Bank and The Bank of California, N.A.

It relates to the same railroad equipment as that identified in supplements and amendments to the Credit and Security Agreement dated as of October 1, 1979.

The names and addresses of the parties to the transaction evidenced by the document described above are as follows:

DEBTOR: BRAE Corporation
Four Embarcadero Center
Suite 3100
San Francisco, California 94111

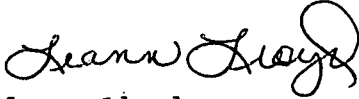
AGENT FOR THE BANKS: Manufacturers Hanover Trust Company
741 Fifth Avenue
New York, New York 10022

It is requested that this document be filed and recorded under the names of the parties as set forth above. In view of the fact that it relates to the Amended and Restated Credit, Pledge and Security Agreement dated July 24, 1981 among the parties named above, previously recorded and assigned recordation number 11965-N and the Credit and Security Agreement dated as of October 1, 1979, previously recorded and assigned recordation number 11965, we request that it be assigned the next letter designation under that primary number.

I also enclose a check in the amount of \$10.00 for the required recordation fee.

Please return: (1) your letter acknowledging the filing, (2) a receipt for the \$10.00 filing fee paid by check drawn on this firm, (3) the enclosed copy of this letter and (4) the two originals and seven copies of the document (retaining one copy for your files) all stamped with your official recordation information.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Leann Lloyd".

Leann Lloyd
Legal Assistant

ll nd

Enclosures

cc: Alfred C. Dossa, Esq.
Lawrence W. Briscoe

OCT 13 1982 - 11 30 AM

First Amendment ~~INTERSTATE COMMERCE COMMISSION~~ dated as of August 30, 1982 ("Amendment") to the Amended and Restated Credit, Pledge and Security Agreement dated as of July 24, 1981 (the "Agreement"), among BRAE Corporation (the "Company") and Manufacturers Hanover Trust Company, The First National Bank of Boston, Berliner Handels-und Frankfurter Bank, Crocker National Bank, The Bank of California, N.A. (together, the "Banks") and Manufacturers Hanover Trust Company, as agent ("Agent").

R E C I T A L S:

The Company, the Banks and the Agent desire to amend the Agreement as herein set forth:

NOW THEREFORE THE PARTIES AGREE:

1. The terms used in this Amendment which are defined in the Agreement have the same meanings herein as specified therein.
2. The first sentence of the definition of Consolidated Net Earnings Available for Restricted Payments is amended to read in its entirety:

"Consolidated Net Earnings Available for Restricted Payments" shall mean an amount equal to (1) the sum of (a) \$10,000,000, plus (b) 50% (or minus 100% in case of a deficit) of (i) Consolidated Net Earnings, plus (ii) current and deferred taxes on income and provision for taxes on unremitted foreign earnings which are included in

gross revenues, minus (iii) taxes paid or payable, for the period (taken as one accounting period) commencing on March 31, 1979 and terminating at the end of the last fiscal quarter preceding the date of any proposed Restricted Payment, plus (c) the aggregate amount received as the net cash proceeds of the sale of any shares of the Company's stock on or after June 1, 1982 and/or the net cash proceeds received on or after June 1, 1982, upon the sale of any Debt security which has been converted into shares of its stock, less (2) the sum of (a) the aggregate amount of all dividends and other distributions paid or declared by the Company on any class of its stock after March 31, 1979, plus (b) the aggregate amount of all expenditures made pursuant to clause (d) of subsection 7.10 hereof after March 31, 1979 plus (c) the excess of the aggregate amount expended, directly or indirectly, after March 31, 1979 for the redemption, purchase or other acquisition of any shares of its stock and for the optional payment of principal of, and the optional retirement, redemption, purchase or other acquisition of, Subordinated Funded Debt, over the aggregate amount received as (x) the net cash proceeds of the sale of any shares of its stock after March 31, 1979 and before June 1, 1982 and/or (y) the net cash proceeds received after March 31, 1979 and before June 1, 1982 upon the sale of Debt security which has been converted into shares of its stock.

3. Section 7.9 of the Agreement is amended by adding the following sentence to the end of such section:

This Section 7.9 will not apply to any redemption, purchase or acquisition, direct or indirect, of any shares of its stock now or hereafter outstanding if within six months of such redemption, purchase or acquisition such shares are used in connection with the acquisition of a Restricted Subsidiary, provided that upon any such redemption, purchase or acquisition the Company shall promptly notify the Agent of such redemption, purchase or acquisition, and further provided that the Company shall not hold at any time stock having an aggregate cost of more than \$1,000,000 which has been acquired pursuant to this Section 7.9.

4. Except as modified hereby, the Agreement remains in full force and effect.

5. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single instrument.

6. The provisions of this Amendment and all rights and obligations of the parties hereunder shall be governed by the laws of State of New York.

7. The Company shall cause this Amendment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11203, as soon as possible and shall promptly thereafter provide file stamped copies of this Amendment to the Agent.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

Attest:

BRAE CORPORATION

By: *Robert E. Fand*
Title: *Asst. Secy.*

By: *Lawrence W. Birnbaum*
Title: *Executive Vice President*

Attest:

MANUFACTURERS HANOVER TRUST COMPANY

By: Theodora C. Deland By: Richard D. Wood

Title: Theodora C. Deland
Assistant Vice President

Title: RICHARD D. WOOD
VICE PRESIDENT

Attest:

THE FIRST NATIONAL BANK OF BOSTON

By: David Shubert

Title: Loan officer

By: Jane F. N. [Signature]

Title: VP

Attest:

BERLINER HANDLES-UND FRANKFURTER
BANK

By: Robert Suchholz

Title: Robert Suchholz
Assistant Vice President

By: [Signature]

Title: Rolf [Signature]
AVP

Attest:

CROCKER NATIONAL BANK

By: Richard H. Edwards

Title: Corporate Banking Officer
Michael J. Baker
Vice President

By: Richard H. Edwards

Title: Corporate Banking Officer

Attest:

THE BANK OF CALIFORNIA, N.A.

By: Mike McClure

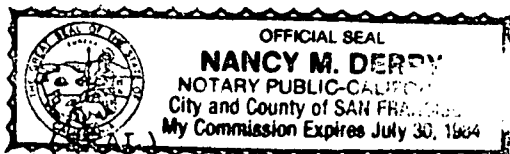
Title: VP

By: Shannon E. James

Title: Assist. Vice Pres.

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On this 25th day of August, 1982,
before me personally appeared Lawrence W. Blasie,
to me personally known, who being by me duly sworn,
says that he is the Ex. Vice President of BRAE CORPORA-
TION, that one of the seals affixed to the foregoing
instrument is the corporate seal of said corporation,
that said instrument was signed and sealed on behalf of
said corporation by authority of its Board of Directors;
and that he acknowledged that the execution of the
foregoing instrument was the free act and deed of said
corporation.



Nancy M. Derry
Notary Public

My commission expires: July 30, 1984

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 30 day of August, 1982,
before me personally appeared RICHARD D. WOOD,
to me personally known, who being by me duly sworn,
says that he is a Vice President of MANUFACTURERS
HANOVER TRUST COMPANY, that one of the seals affixed to
the foregoing instrument is the corporate seal of said
corporation, that said instrument was signed and sealed
on behalf of said corporation by authority of its Board
of Directors; and he acknowledged that the execu-
tion of the foregoing instrument was the free act and
deed of said corporation.

(SEAL)

Dorothy Barouch
Notary Public

My commission expires: _____
DOROTHY BAROUCH
NOTARY PUBLIC, State of New York
No. 41-4522891
Qualified in Queens County
Commission Expires March 30, 1984

STATE OF MASSACHUSETTS)
) ss.:
COUNTY OF SUFFOLK)

On this 8th day of September, 1982,
before me personally appeared James F. Notman, Jr.,
to me personally known, who being by me duly sworn,
says that he is a Vice President of the THE
FIRST NATIONAL BANK OF BOSTON, that one of the seals
affixed to the foregoing instrument is the corporate
seal of said corporation, that said instrument was
signed and sealed on behalf of said corporation by
authority of its Board of Directors; and he acknowledged
that the execution of the foregoing instrument was the
free act and deed of said corporation.

(SEAL)

Mary T. Finlayson
Notary Public

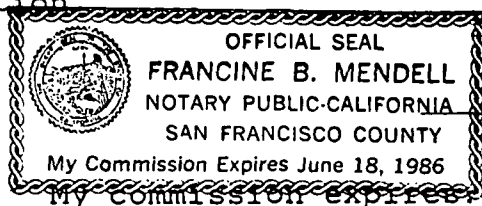
My commission expires:

MARY T. FINLAYSON
NOTARY PUBLIC
My Commission Expires September 16, 1988

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On this 16th day of September, 1982,
before me personally appeared Richard H. Edwards,
to me personally known, who being by me duly sworn,
says that he is a Corporate Banking Officer of CROCKER NATIONAL
BANK, that one of the seals affixed to the foregoing
instrument is the corporate seal of said corporation,
that said instrument was signed and sealed on behalf of
said corporation by authority of its Board of Directors;
and he acknowledged that the execution of the fore-
going instrument was the free act and deed of said
corporation.

(SEAL)



Francine B. Mendell
Notary Public
June 18, 1986

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On this 28th day of SEPTEMBER, 1982, before me personally appeared SHANNON E. JAMES, to me personally known, who being by me duly sworn, says that he is a ASSISTANT VICE PRESIDENT of THE BANK OF CALIFORNIA, N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(SEAL)


Notary Public

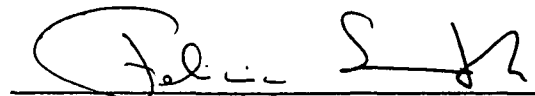
My commission expires:



STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 31st day of August, 1982, before me, _____, a notary public in and for said State, personally appeared Robert S. Schuch, known to me to be Assistant Vice President and Rolf D. Drexler, known to me to be a Assistant Vice President of BERLINER HANDELS-UND FRANKFURTER BANK, one of the corporations which executed the above instrument, known to me to be the persons who executed the above instrument on behalf of said corporation therein named, and acknowledged to me that said corporation executed the above instrument pursuant to its by-laws or a resolution of its managing partners.

(SEAL)


Notary Public
FELICIA SMITH
Notary Public, State of New York
No. 43-4727671
Qualified in Richmond County
Commission Expires March 30, 1984

My commission expires:

OCT 13 1982 - 11 20 AM

INTERSTATE COMMERCE COMMISSION
First Amendment dated as of August 30, 1982 ("Amendment") to the Amended and Restated Credit, Pledge and Security Agreement dated as of July 24, 1981 (the "Agreement"), among BRAE Corporation (the "Company") and Manufacturers Hanover Trust Company, The First National Bank of Boston, Berliner Handels-und Frankfurter Bank, Crocker National Bank, The Bank of California, N.A. (together, the "Banks") and Manufacturers Hanover Trust Company, as agent ("Agent").

R E C I T A L S:

The Company, the Banks and the Agent desire to amend the Agreement as herein set forth:

NOW THEREFORE THE PARTIES AGREE:

1. The terms used in this Amendment which are defined in the Agreement have the same meanings herein as specified therein.

2. The first sentence of the definition of Consolidated Net Earnings Available for Restricted Payments is amended to read in its entirety:

"Consolidated Net Earnings Available for Restricted Payments" shall mean an amount equal to (1) the sum of (a) \$10,000,000, plus (b) 50% (or minus 100% in case of a deficit) of (i) Consolidated Net Earnings, plus (ii) current and deferred taxes on income and provision for taxes on unremitted foreign earnings which are included in

gross revenues, minus (iii) taxes paid or payable, for the period (taken as one accounting period) commencing on March 31, 1979 and terminating at the end of the last fiscal quarter preceding the date of any proposed Restricted Payment, plus (c) the aggregate amount received as the net cash proceeds of the sale of any shares of the Company's stock on or after June 1, 1982 and/or the net cash proceeds received on or after June 1, 1982, upon the sale of any Debt security which has been converted into shares of its stock, less (2) the sum of (a) the aggregate amount of all dividends and other distributions paid or declared by the Company on any class of its stock after March 31, 1979, plus (b) the aggregate amount of all expenditures made pursuant to clause (d) of subsection 7.10 hereof after March 31, 1979 plus (c) the excess of the aggregate amount expended, directly or indirectly, after March 31, 1979 for the redemption, purchase or other acquisition of any shares of its stock and for the optional payment of principal of, and the optional retirement, redemption, purchase or other acquisition of, Subordinated Funded Debt, over the aggregate amount received as (x) the net cash proceeds of the sale of any shares of its stock after March 31, 1979 and before June 1, 1982 and/or (y) the net cash proceeds received after March 31, 1979 and before June 1, 1982 upon the sale of Debt security which has been converted into shares of its stock.

3. Section 7.9 of the Agreement is amended by adding the following sentence to the end of such section:

This Section 7.9 will not apply to any redemption, purchase or acquisition, direct or indirect, of any shares of its stock now or hereafter outstanding if within six months of such redemption, purchase or acquisition such shares are used in connection with the acquisition of a Restricted Subsidiary, provided that upon any such redemption, purchase or acquisition the Company shall promptly notify the Agent of such redemption, purchase or acquisition, and further provided that the Company shall not hold at any time stock having an aggregate cost of more than \$1,000,000 which has been acquired pursuant to this Section 7.9.

4. Except as modified hereby, the Agreement remains in full force and effect.

5. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single instrument.

6. The provisions of this Amendment and all rights and obligations of the parties hereunder shall be governed by the laws of State of New York.

7. The Company shall cause this Amendment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11203, as soon as possible and shall promptly thereafter provide file stamped copies of this Amendment to the Agent.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

Attest:

BRAE CORPORATION

By:

Robert E. Fand
Title: Asst. Secy.

By:

Lawrence W. Bissell
Title: Executive Vice President

Attest:

MANUFACTURERS HANOVER TRUST COMPANY

By: Theresa C. Deland By: Richard D. Wood

Title: Theresa C. Deland
Assistant Vice President

Title: RICHARD D. WOOD
VICE PRESIDENT

Attest:

THE FIRST NATIONAL BANK OF BOSTON

By: David Shukis

By: James F. N. [Signature]

Title: Loan Officer

Title: VP

Attest:

BERLINER HANDLES-UND FRANKFURTER
BANK

By: Robert Suchholz

By: [Signature]

Title: Robert Suchholz
Assistant Vice President

Title: Rolf [Signature]
AVP

Attest:

CROCKER NATIONAL BANK

By: Richard H. Edwards

By: Richard H. Edwards

Title: Corporate Banking Officer
Michael J. Baker
Vice President

Title: Corporate Banking Officer

Attest:

THE BANK OF CALIFORNIA, N.A.

By: Mike McClure

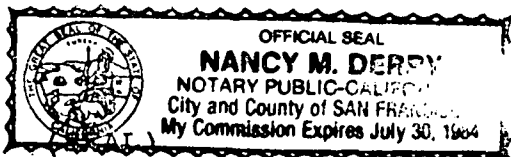
By: Shannon E. James

Title: VP

Title: Assist. Vice Pres.

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On this 25th day of August, 1982,
before me personally appeared Lawrence W. Bessie,
to me personally known, who being by me duly sworn,
says that he is the Ex. Vice President of BRAE CORPORA-
TION, that one of the seals affixed to the foregoing
instrument is the corporate seal of said corporation,
that said instrument was signed and sealed on behalf of
said corporation by authority of its Board of Directors;
and that he acknowledged that the execution of the
foregoing instrument was the free act and deed of said
corporation.



Nancy M. Derry
Notary Public

My commission expires: July 30, 1984

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 30 day of August, 1982,
before me personally appeared RICHARD D. WOOD,
to me personally known, who being by me duly sworn,
says that he is a Vice President of MANUFACTURERS
HANOVER TRUST COMPANY, that one of the seals affixed to
the foregoing instrument is the corporate seal of said
corporation, that said instrument was signed and sealed
on behalf of said corporation by authority of its Board
of Directors; and he acknowledged that the execu-
tion of the foregoing instrument was the free act and
deed of said corporation.

(SEAL)

Dorothy Barouch
Notary Public

My commission expires: _____

DOROTHY BAROUCHE
NOTARY PUBLIC, State of New York
No. 41-4522891
Qualified in Queens County
Commission Expires March 30, 1984

STATE OF MASSACHUSETTS)
) ss.:
COUNTY OF SUFFOLK)

On this 8th day of September, 1982,
before me personally appeared James F. Netman, Jr.,
to me personally known, who being by me duly sworn,
says that he is a Vice President of the THE
FIRST NATIONAL BANK OF BOSTON, that one of the seals
affixed to the foregoing instrument is the corporate
seal of said corporation, that said instrument was
signed and sealed on behalf of said corporation by
authority of its Board of Directors; and he acknowledged
that the execution of the foregoing instrument was the
free act and deed of said corporation.

(SEAL)

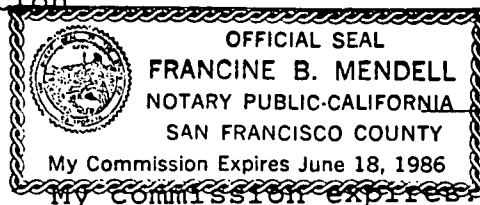
Mary T. Finlayson
Notary Public

My commission expires: MARY T. FINLAYSON
NOTARY PUBLIC
My Commission Expires September 16, 1988

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On this 16th day of September, 1982,
before me personally appeared Richard H. Edwards,
to me personally known, who being by me duly sworn,
says that he is a Corporate Banking Officer of CROCKER NATIONAL
BANK, that one of the seals affixed to the foregoing
instrument is the corporate seal of said corporation,
that said instrument was signed and sealed on behalf of
said corporation by authority of its Board of Directors;
and he acknowledged that the execution of the fore-
going instrument was the free act and deed of said
corporation.

(SEAL)



Francine B. Mendell
Notary Public
June 18, 1986

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On this 28th day of SEPTEMBER, 1982, before me personally appeared SHANNON E. JAMES, to me personally known, who being by me duly sworn, says that he is a ASSISTANT VICE PRESIDENT of THE BANK OF CALIFORNIA, N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(SEAL)


Notary Public

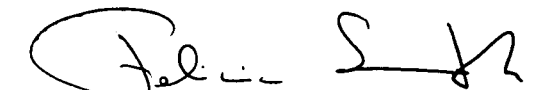
My commission expires:



STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 31st day of August, 1982, before me, _____, a notary public in and for said State, personally appeared Robert S. Schuch, known to me to be Assistant Vice President and Rolf D. Dreyer, known to me to be a Assistant Vice President of BERLINER HANDELS-UND FRANKFURTER BANK, one of the corporations which executed the above instrument, known to me to be the persons who executed the above instrument on behalf of said corporation therein named, and acknowledged to me that said corporation executed the above instrument pursuant to its by-laws or a resolution of its managing partners.

(SEAL)


Notary Public
FELICIA SMITH
Notary Public, State of New York
No. 43-4727671
Qualified in Richmond County
Commission Expires March 30, 1984

My commission expires: